

Ordinance No: 17-09
Zoning Text Amendment No: 11-01
Concerning: Commercial/Residential
zones – Neighborhood
and Town zones
Draft No. & Date: 9 – 10/11/11
Introduced: April 12, 2011
Public Hearing: May 17, 2011
Adopted: October 11, 2011
Effective: October 31, 2011

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: Council President Ervin at Request of the Planning Board

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- **establish** the Commercial/Residential Neighborhood (CRN) and Commercial/Residential Town (CRT) zones; and
- generally amend the Commercial/Residential zones.

By **amending** the following Division to the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-C-15 “COMMERCIAL/RESIDENTIAL [(CR)] ZONES”

EXPLANATION: ***Boldface** indicates a heading or a defined term.*
Underlining indicates text that is added to existing laws by the original text amendment.
[Single boldface brackets] indicate text that is deleted from existing law by the original text amendment.
Double underlining indicates text that is added to the text amendment by amendment.
[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.
** * * indicates existing law unaffected by the text amendment.*

OPINION

Zoning Text Amendment No. 11-01 was introduced on April 12, 2011 by Council President Ervin, at the request of the Planning Board.

The initial Planning Board Draft Kensington Sector Plan proposed using CR zones to implement the Plan. The Planning, Housing, and Economic Development Committee did not believe that CR zones were appropriate because of the burdens it placed on development. The Committee asked the Planning Board to develop zones more appropriate for Kensington, Takoma/Langley, and Wheaton. The Planning Board responded with a request to introduce ZTA 11-01 on March 11, 2011. In the Planning Board's opinion, ZTA 11-01 has 3 functions:

- (1) establish new Commercial/Residential Neighborhood (CRN) zones;
- (2) establish new Commercial/Residential Town (CRT) zones; and
- (3) enact various amendments to the Commercial/Residential (CR) zones, some related to integrating the new CRN and CRT zones, and some representing improvements and clarifications resulting from experience with the CR zones since their adoption.

The Commercial/Residential Neighborhood (CRN) and Commercial/Residential Town (CRT) zones were developed for areas where there are smaller properties, lower densities, and more challenging economic conditions. The new zones are structured like the current CR zones; the total floor area ratio (FAR), the residential FAR, the non-residential FAR, and the maximum building height are identified with each zone. One zoning series is needed for areas where existing commercial zones are located next to single-family residential neighborhoods. Another zoning series is needed for areas where requiring too many public benefits might impede redevelopment. The allowed land uses and development standards vary with each zone. The CRN zones would have the most limited land uses of the 3 commercial/residential zones. Optional method development would not be allowed in CRN zones.

The Montgomery County Planning Board, in its letter to the Council dated May 13, 2011, recommended that the text amendment be approved with amendments to the provisions for parking requirements in the CRN and CRT zones, sketch plan amendments during the site plan approval process, and the definition of transit proximity. The Board's recommendations were based on testimony from its hearing and its deliberations thereafter.

The County Council held a public hearing on May 17, 2011 to receive testimony concerning the proposed text amendment. The text amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

The PHED Committee took a hard look at the Planning Board's recommendations. It recommended strengthening the role of master plans; maintaining the current role of design guidelines; clarifying the sketch plan process as recommended by the Planning Board; amending the parking provisions as recommended by the Planning Board; protecting neighborhoods by limiting land uses in CRN zones; increased incentives for MPDUs above the minimum required;

adding a provision for retaining existing buildings; and allowing a shorter list of public benefits for projects zoned CR or CRT after the approval of ZTA 11-01.

The shorter list of public benefits deleted environmental and some design provisions and amended transit-related public benefits. A majority of the Committee believed that much of the deleted public benefits could be required elements of a development for which additional density should not be granted. A majority of the Committee also believed that a reduced list of public benefits would focus on more important benefits, such as affordable housing. The detailed recommendation of the Committee is identified in the staff memorandum to the Council for its October 4, 2011. This opinion incorporates that memorandum by reference.

On September 19, 2011, the Committee recommended the approval of ZTA 11-01, with amendments identified in the October 4, 2011 staff memorandum to the Council. The Committee's recommendation was developed after the Committee held previous worksessions on June 13, June 22, June 23, June 27, June 30, July 11, July 14, and July 18, 2011.

The District Council reviewed Zoning Text Amendment No.11-01 at worksessions held on September 27, October 4, and October 11, 2011. After a review of the Committee's recommendations and deliberations on the testimony received, the Council agreed with most of the recommendations of the Planning, Housing, and Economic Development Committee; however, the Council did not agree with the Committee's recommendations concerning the definition of transit proximity and the list of public benefits. The Council agreed with Councilmember Floreen's substitute amendment to accomplish that objective.

The Council agreed with the Planning Board's May 13, 2011 recommendation for the definition of transit proximity and the treatment of development that satisfies the definition. The Council believed that it is in the public interest to make it easier to develop nearest transit than to develop further from transit. A recommendation to delete the benefits for a project located between ½ mile and 1 mile from transit was not approved.

The Council agreed with the Committee's recommendations for increased public benefit points for affordable housing and new public benefits for retaining existing buildings, but added the 5 new public benefits recommended by the Planning Board:

- 1) way-finding signage;
- 2) live/work units;
- 3) architectural elevations;
- 4) habitat preservation/restoration; and
- 5) cool roofs.

In the Council's opinion, the increased list of benefits added the flexibility needed in softer markets. It also avoided the need to have one set of public benefit rules in White Flint and the Shady Grove Science Corridor and a different set of rule outside of those areas. On October 4 and October 11, 2011, the Council made 9 changes to the ZTA as amended by Councilmember Floreen. The Council:

- 1) allowed teen centers as a public benefit and defined teen centers;
- 2) allowed “clinics” as a “limited” use in CRN zones;
- 3) allowed public benefit points for neighborhood services, only if the applicant is providing small retail space in an area where retail choices do not exist, with a grandfathering provision for sketch plans approved before October 11, 2011;
- 4) allowed fewer public benefit points for small lots and properties zoned at lower density;
- 5) required that optional method projects substantially conform to Planning Board approved design guidelines;
- 6) lowered the maximum total density, residential density, non-residential density, and height in CRN zones;
- 7) clarified the triggers for site plan review;
- 8) excluded land zoned residential or agricultural, but used for commercial, industrial, or utility uses, from setback, density averaging, and land use protections;
- 9) allowed staff to make editorial changes.

The Council was particularly concerned that CRN zones may replace CT zones. CT zoning sometimes has lower heights, lower density, and restrictive land uses enforced by binding covenants. Expanding the allowable range of options will help the Council to implement master plans. The Council approved master or sector plan would still guide the zone applied.

There are 3 provisions in ZTA 11-01 that protect one-family zoned and agriculturally zoned properties. Projects may not average density in a manner that exceeds the density of the zone abutting the protected zones. Projects that include limited land uses are required to get site plan approval. Setbacks are specified. The Council wants to protect single-family communities and farmland. The reason for protection no longer exists when the neighboring property is zoned for residential or agricultural purposes but the land use is non-residential (commercial, industrial, or utility use).

ZTA 11-01 as recommended by the Planning Board included 20 public benefit categories, with a maximum number of public benefit points that could be awarded by the Planning Board. In addition, the Planning Board recommended 14 public benefits that had a minimum number of points designated but no maximum number of points. The Council determined that, to make the appropriate delegation of authority, upper bounds for public benefit points were in order for all public benefit categories.

The Council was also satisfied that ZTA 11-01 includes provisions to allow the Planning Board to disapprove a project if the package of public benefits does not sufficiently conform to the master plan and public needs created by the development. The Planning Board Chair agreed that the ZTA will be administered using that discretion.

The Council did not change the applicability provisions as submitted by the Planning Board. The Council wanted to retain the opportunity to apply the zones after a full examination in a master plan, without being constrained by strict standards. The Council retained the provision that only allowed the application of the CR, CRN, and CRT zones by the specific recommendation of a

master plan. In doing so, the Council did not intend to prejudge if that provision might be retained or amended when it considers a rewritten zoning ordinance.

For these reasons, and because to approve this amendment will assist in the coordinated, comprehensive, adjusted and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 11-01 will be approved as amended.

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

Sec. 1. Division 59-C-15 is amended as follows:

*** * ***

DIVISION 59-C-15. COMMERCIAL/RESIDENTIAL [(CR)] ZONES

59-C-15.1. Zones established.

59-C-15.11. [The Commercial/Residential (CR) zones are established as combinations of a sequence of 4 factors: maximum total floor area ratio (FAR), maximum non-residential FAR, maximum residential FAR, and maximum building height.]

(a) There are 3 commercial/residential classifications with variable uses, density and height limits, general requirements, development standards, and public benefit requirements to respond to different settings. These zone classifications are:

(1) CR Neighborhood (CRN);

(2) CR Town (CRT); and

(3) CR (CR).

(b) [These zones are identified by] Each CRN, CRT, or CR zone classification is followed by a number and a sequence of 3 additional symbols: [CR,] C, R, and H, each followed by a number where:

[(a)](1) the number following the [symbol “CR”-] CRN, CRT, or CR is the maximum total FAR;

[(b)](2) the number following the [symbol] “C” is the maximum non-residential FAR;

[(c)](3) the number following the [symbol] “R” is the maximum residential FAR; and

[(d)](4) the number following the [symbol] “H” is the maximum building height in feet.

(c) The Commercial/Residential zones must be applied on the zoning map that will show, for each property classified:

(1) the commercial/residential classification; and

(2) the 4 standards (total, non-residential, and residential densities and building height).

(d) This Division uses examples and illustrations to demonstrate the intent of the CR zones. [The] These examples [in this Division] and illustrations do not add, delete, or modify any provision of this Division. [Examples are provided only to demonstrate particular applications of the provisions in the Division. Examples are not intended to limit the provisions.]

59-C-15.12. Density and height allocation.

59-C-15.121. Density and height limits.

(a) Each [[unique sequence of]] CRN, CRT, or CR[[,]] classification and unique sequence of C, R, and H is established as a zone under the following limits:

<u>Category</u>	<u>Maximum Total FAR</u>	<u>Maximum C or R FAR</u>	<u>Maximum H</u>
<u>CRN</u>	<u>[[0.5]] 0.25 to 1.5</u>	<u>[[.25]] 0 to 1.5</u>	<u>[[40]] 25 to 65</u>
<u>CRT</u>	<u>0.5 to 4.0</u>	<u>0.25 to 3.5</u>	<u>40 to 150</u>
<u>CR</u>	<u>0.5 to 8.0</u>	<u>0.25 to 7.5</u>	<u>40 to 300</u>

(b) Zones may be established and mapped at densities in increments of 0.25 and heights in increments of 5 feet, within the ranges indicated in the table.

Example: Under the provisions of Sections (a) and (b) above, the CRN zones may establish maximum total densities of 0.25, 0.5, 0.75, 1.0, 1.25, or 1.5 FAR, and maximum heights of 25, 30, 35, 40, 45, 50, 55, 60, or 65. The range of densities

and heights from which the various CRN zones can be established and mapped provides guidance to the Planning Board's recommendation and to the Council when ~~[[applying]]~~ applying a particular zone. Once the zone is approved on a zoning map, it allows a ~~[[developer]]~~ property owner to build at any height and density up to the maximum. For example, a property owner whose land is zoned at CRN-1.0 C-0.5 R-1.0 H-45 could elect to build at a 1.0 FAR with a height of 35 feet or 0.75 FAR and 42 feet, or any other combination up to 1.0 FAR and 45 feet.

- [(a) the maximum total FAR must be established as an increment of 0.25 from 0.5 up to 8.0;
- (b) the maximum non-residential and residential FAR must be established as an increment of 0.25 from 0.25 up to 7.5; and
- (c) the maximum height must be established as an increment of 5 feet up to 100 feet and an increment of 10 feet from 100 feet up to 300 feet.]

[59-C-15.121]59-C-15.122. Density averaging.

Permitted density may be averaged over 2 or more directly abutting or confronting lots or parcels in one or more CRN, CRT, or CR zones, provided that:

- (a) the lots or parcels are subject to the same site plan or sketch plan; however, if a sketch plan is required, density averaging must be shown on the sketch plan;
- (b) the lots or parcels are created by the same preliminary subdivision plan or satisfy a phasing plan established by an approved sketch plan;
- (c) the maximum total [density and] ~~[[.]]~~ non-residential and residential density limits apply to the entire development, not to individual lots or parcels;
- (d) no building may exceed the maximum height set by the zone;

- (e) [public benefits must be provided under the phasing element of an approved sketch plan] uses are subject to the provisions of the property's zone classification;
- (f) the total allowed maximum density [of] on a lot or parcel [zoned CR] that is adjacent to or confronting [one-family residentially zoned or agriculturally zoned lots or parcels] a lot or parcel in a one-family residential zone or an agricultural zone, that is not improved with a commercial, industrial, or utility use, may not [be exceeded] exceed that allowed by the lot or parcel's commercial/residential zone; and
- (g) [the resulting development must conform to the design and land use objectives of the applicable master or sector plan and design guidelines.] public benefits must be provided under the phasing element of an approved sketch plan.

59-C-15.13. Applicability.

The CRN, CRT, and CR zones can only be applied when specifically recommended by an approved and adopted master or sector plan and only by [the] sectional map amendment [process].

Examples:

- An area zoned [CR-2.0] [[CRN1.5, C1.0, R1.0, [H80] H45]] CRN-1.5 C-1.0 R-1.0 H-45 allows a total FAR [of 2.0] up to 1.5, with maximum non-residential and residential FARs of 1.0, thereby requiring [an equal] a mix of uses to obtain the total FAR allowed. The height for any building in this zone is limited to [80] 45 feet.
- An area zoned [[CR-]6.0, C3.0, R5.0, H200]] CR-6.0 C-3.0 R-5.0 H-200 allows [a residential FAR of up to 5.0,] a non-residential FAR [of] up to 3.0, a residential FAR up to 5.0, and a mix of the two uses could yield a total FAR of 6.0. This combination allows for flexibility in the market and shifts in the surrounding context. The height for any building in this zone is limited to 200 feet.
- An area zoned [CR-4.0] [[CRT3.5, [C4.0] C3.5, [R4.0] R3.5, [H160] H100]] CRT-3.5 C-3.5 R-3.5 H-100 allows complete flexibility in the mix of uses, including buildings with no mix, because the maximum allowed non-residential and residential FARs are both

equivalent to the total maximum FAR allowed. The height for any building in this zone is limited to [160] 100 feet.

59-C-15.2. Description and objectives of the CR zones.

The CRN, CRT, and CR zones permit a mix of residential and non-residential uses at varying densities and heights. The zones promote economically, environmentally, and socially sustainable development patterns where people can live, work, recreate, and have access to services and amenities while minimizing the need for automobile use. The application of the CR zones is appropriate where ecological impacts can be moderated by co-locating housing, jobs, and services.

The objectives of the CRN, CRT, and CR zones are to:

- (a) implement the policy recommendations of applicable master and sector plans;
- (b) target opportunities for redevelopment of single-use areas and surface parking lots with a mix of uses;
- (c) reduce dependence on the automobile by encouraging development that integrates a combination of housing types, mobility options, commercial services, and public facilities and amenities;
- (d) allow a mix of uses, densities, and building heights appropriate to various contexts to ensure compatible relationships with adjoining neighborhoods;
- (e) [encourage] allow an appropriate balance of employment and housing opportunities [and compatible relationships with adjoining neighborhoods;
- (e) establish the maximum density and building height for each zone, while retaining appropriate development flexibility within those limits]; and
- (f) standardize optional method development by establishing minimum requirements for the provision of [the] public benefits that will support and accommodate density above the standard method limit.

59-C-15.3. Definitions specific to the CR zones.

The following words and phrases, as used in this Division, have the meaning indicated. The definitions in Division 59-A-2 otherwise apply.

Car share space: a parking space that serves as the location of an in-service vehicle used by a vehicle-sharing service.

Cultural institutions: public or private institutions or businesses, including: art, music, and photographic studios; auditoriums or convention halls; libraries and museums; recreational, performance, or entertainment establishments, commercial; theater, indoor; theater, legitimate.

Day care facilities and centers: facilities and centers that provide daytime care for children and/or adults, including: child [[daycare]] day care facility (family day care, group day care, child day care center, teen center); [[daycare]] day care facility for not more than 4 senior adults and persons with disabilities; and day care facility for senior adults and persons with disabilities.

Frontage: a property line shared with an existing or master-planned public or private road, street, highway, or alley right-of-way or easement boundary.

Limits of Disturbance: an area on a certified site plan within which all construction work must occur.

Live/Work unit: Buildings or spaces within buildings that are used jointly for non-residential and residential purposes [where the residential use of the space may be secondary or accessory to the primary use as a place of work].

Manufacturing and production, artisan: The manufacture and production of commercial goods by a skilled manual worker or craftsman, such as jewelry, metalwork, cabinetry, stained glass, textiles, ceramics, or hand-made food products; however, it does not include any activity which causes noise, odor, or vibration to be detectable on a neighboring property.

Public Arts Trust Steering Committee: A committee of the Arts and Humanities Council that allocates funds from the Public Arts Trust.

Public owned or operated uses: Activities that are located on land owned by or leased and developed or operated by a local, county, state, or federal body or agency.

Recreational facilities, participatory: Facilities used for sports or recreation.

Reconstruction: Building the same or less floor area on or within the footprint of a demolished or partially demolished building.

Renovation: An interior or exterior alteration that does not affect a building's footprint.

Seasonal Outdoor Sales: A lot or parcel where a use or product is offered annually for a limited period of time during the same calendar period each year. The availability or demand for the use or product is related to the calendar period, such as Christmas trees, pumpkin patches, or corn mazes.

Teen Center: A supervised building, or a supervised area of a building, which provides a facility for the social, recreational, or educational use of children between the ages of 12 and 18. At least 80 percent of the facility's hours of operation must be for the use of teenagers.

Tenant Footprint: The horizontal area measured within the exterior walls for the ground floor of the main structure allocated to each non-residential tenant or owner-occupant.

Transit proximity: Transit proximity is categorized in two levels: 1. proximity to an existing or master planned Metrorail Station; 2. proximity to an existing or master planned station or stop along a rail or bus line with a dedicated, fixed path. All distances for transit proximity are measured from the nearest transit station entrance or bus stop entrance. [[To qualify as a planned station or stop ,

the station or stop must have funds appropriated in the relevant Capital Improvement Program.]]

59-C-15.4. Methods of development and approval procedures.

[Two methods of development are available under the CR zones] The CRN zones allow development only under the standard method. The CRT and CR zones allow development under the standard method and may allow development under the optional method.

59-C-15.41. Standard Method.

Standard method development [must comply with the general requirements and development standards of the CR zones] is allowed under the following requirements.

- (a) In the CRN zones, the maximum total, non-residential, and residential densities and maximum building height for any property are shown on the zoning map.
- (b) In the CRT and CR zones, the maximum standard method density is the lesser of the density shown on the zoning map or:

Category	Maximum Total Density
CRT	<u>The greater of 1.0 FAR or 10,000 gross square feet of floor area.</u>
CR	<u>The greater of 0.5 FAR or 10,000 gross square feet of floor area.</u>

- (c) A site plan approval under Division 59-D-3 is required for a standard method development [project] only if the development:

- [(a)] (1) is a Limited Use;
- (2) [the] [[includes a gross floor area [exceeds] exceeding 10,000 square feet;]] [or] is located in a CRN zone and results in 10,000 square feet

or more of floor area, including any existing floor area, except where
Section 59-C-15.9(a) applies;

(3) is located in a CRT or CR zone and results in 10,000 square feet or
more of floor area in addition to any floor area existing when the CRT
or CR zone was applied, except where Section 59-C-15.9(a) applies;

(4) includes a building height exceeding 40 feet; [[or]]

[(b)] ~~[(4)]~~ (5) [any building or group of buildings contains] includes 10 or
more dwelling units; or

(6) includes a drive-through facility.

59-C-15.42. Optional method.

Optional method development [must comply with the general requirements and
 development standards of the CR zones and must provide public benefits under
 Section 59-C-15.8 to obtain greater density and height than allowed under the
 standard method of development. A sketch plan and site plan are required for any
 development using the optional method. A sketch plan must be filed under the
 provisions below; a site plan must be filed under Division 59-D-3. Any required
 preliminary subdivision plan must not be submitted before a sketch plan is
 submitted] is allowed under the following requirements.

(a) The maximum total, non-residential, and residential densities and building
height for any property are set by the zone shown on the zoning map.

(b) A sketch plan must be submitted under Section 59-C-15.43.

(c) Site plan(s) must be submitted under Division 59-D-3.

(d) Public benefits must be provided under Section 59-C-15.8.

59-C-15.43. Sketch plan.

Any optional method development in the CRT and CR zones requires an approved
sketch plan. Any required preliminary plan of subdivision or site plan may [[not]]

235 be submitted [[before a sketch plan has been approved]] when a sketch plan is
 236 submitted, or any time thereafter.

237 (a) A sketch plan application must contain:

238 (1) a justification statement that addresses how the project meets the
 239 requirements and standards of this Division [for optional method
 240 development] and describes how the development will further the
 241 objectives of the applicable master or sector plan;

242 (2) [an] illustrative [plan] plans [or model that shows] showing:

243 (A) [the maximum densities for residential and non-residential
 244 uses, massing, and heights of buildings] building densities,
 245 massing, heights, and the anticipated mix of uses;

246 (B) locations of public use and other open spaces;

247 (C) pedestrian, bicycle, and vehicular circulation, parking, and
 248 loading; and

249 (D) [the] relationships between existing or proposed adjacent
 250 buildings [on adjoining tracts] and rights-of-way;

251 (3) [an illustrative diagram of proposed vehicular, pedestrian, and bicycle
 252 access, circulation, parking, and loading areas;

253 (4)] a table of proposed public benefits and the incentive density
 254 requested for each; and

255 [(5)](4) [the] a general phasing outline of structures, uses, rights-of-
 256 way, sidewalks, dedications, public benefits, and future preliminary
 257 and site plan applications.

258 (b) Procedure for a sketch plan:

- (1) Before filing a sketch plan application, an applicant must comply with the provisions of the Manual for Development Review Procedures, as amended, that concern the following:
- (A) notice;
 - (B) posting the site of the application submittal; and
 - (C) holding a pre-submittal meeting.
- (2) A public hearing must be held by the Planning Board on each sketch plan application no later than 90 days after the filing of an optional method development application, unless a request to extend this period is requested by the applicant, Planning Board staff, or other interested parties. A request for an extension must be granted if the Planning Board finds it not to constitute prejudice or undue hardship on any interested party. A recommendation regarding any request for extension must be acted upon [as a consent agenda item] by the Planning Board on or before the 90-day hearing period expires. Notice of the extension request and recommendation by Staff must be posted no fewer than 10 days before the item's agenda date.
- (3) No fewer than 10 days before the public hearing on a sketch plan, Planning Board staff must submit its analysis of the application, including its findings, comments, and recommendations with respect to the requirements and standards of this ~~[[division]]~~ Division and any other matters that may assist the Planning Board in reaching its decision on the application. This staff report must be included in the record of the public hearing.

- 283 (4) The Planning Board must act within 30 days after the close of the
 284 record of the public hearing, by majority vote of those present and
 285 voting based upon the hearing record, to:
- 286 (A) approve;
 - 287 (B) approve subject to modifications, conditions, or binding
 288 elements; or
 - 289 (C) disapprove.
- 290 (c) In approving a sketch plan, the Planning Board must find that the following
 291 elements are appropriate in concept and appropriate for further detailed
 292 review at site plan. The sketch plan must:
- 293 (1) [The plan: (A) meets the] meet the objectives, general requirements,
 294 and standards of this Division;
 - 295 (2) [(B) will further] further the recommendations and objectives of the
 296 applicable master or sector plan;[and (C) will provide more efficient
 297 and effective development of the site than the standard method of
 298 development;]
 - 299 [(2)](3) [The proposed building massing and height and public use and
 300 other open spaces are located and scaled to achieve] achieve
 301 compatible internal and external relationships [with each other and
 302 with] between existing and proposed nearby buildings, [and] open
 303 space [adjacent to the site and with adjacent communities], and uses;
 - 304 [(3)](4) [The] provide satisfactory general vehicular, pedestrian, and
 305 bicyclist access, circulation, parking, and loading [areas are adequate,
 306 safe, and efficient];
 - 307 [(4)](5) [The proposed] propose an outline of public benefits [and
 308 associated] that supports the requested incentive density [will further

the objectives of the applicable master or sector plan and the objectives of the CR zones]; and

~~[(5)](6)~~ [The general] establish a feasible and appropriate provisional phasing [of] plan for all structures, uses, rights-of-way, sidewalks, dedications, public benefits, and future preliminary and site [plans is feasible and appropriate to the scale and characteristics of the project] plan applications.

(d) During site plan review, the Planning Board may approve [[modifications to the binding elements or conditions of an approved sketch plan.

(1) If changes to a sketch plan are requested by the applicant, notice of the site plan application must identify those changes requested. The applicant has the burden of persuading the Planning Board that such changes should be approved.

(2) If changes are recommended after the application is made, notice of the site plan hearing must identify changes requested.

(3) In acting to approve a sketch plan modification as part of site plan review, the Planning Board must make the findings required in Section 59-C-15.42(c) in addition to those required by Section 59-D-3]] amendments to the binding elements of an approved sketch plan.

(1) Amendments to the binding elements may be approved, if such amendments are:

(A) requested by the applicant;

(B) recommended by the Planning Board staff and agreed to by the applicant; or

(C) made by the Planning Board, based on a staff recommendation or on its own initiative, if the Board finds that a change in the

relevant facts and circumstances since sketch plan approval demonstrates that the binding element either is not consistent with the applicable master or sector plan or does not meet the requirements of the zone.

- (2) Notice of proposed amendments to the binding elements must be identified in the site plan application if requested by the applicant, or in the final notice of the site plan hearing if recommended by Planning Board staff and agreed to by the applicant.
- (3) For any amendments to the binding elements, the Planning Board must make the applicable findings under Section 59-C-15.43(c), in addition to the findings necessary to approve a site plan under Section 59-D-3.

59-C-15.5. Land uses.

No use is allowed in the CRN, CRT, or CR zones except as indicated below:

- *Permitted Uses* are designated by the letter “P” and are permitted subject to all applicable regulations.
- *Limited Uses* are designated by the letter “L” and are permitted subject to all applicable regulations and the additional restrictions under Section 59-C-15.51.
- *Special Exception Uses* are designated by the letters “SE” and may be authorized as special exceptions under Article 59-G.

Use	CRN	CRT	CR
(a) Agricultural (non-residential)			
Farm and country markets	<u>L</u>	<u>P</u>	P
Farm, limited to crops, vegetables, herbs, and ornamental plants	<u>P</u>	<u>P</u>	P
Nursery, horticultural – retail or wholesale		<u>P</u>	P
Seasonal outdoor sales	<u>P</u>	<u>P</u>	P
(b) Residential			

Use	CRN	CRT	CR
Dwellings	<u>P</u>	<u>P</u>	P
Group homes, small [or large]	<u>P</u>	<u>P</u>	P
Group homes, large	<u>L</u>	<u>P</u>	<u>P</u>
Hospice care facilities	<u>L</u>	<u>P</u>	P
Housing and related facilities for senior adults or persons with disabilities	<u>P</u>	<u>P</u>	P
Life care facilities	<u>P</u>	<u>P</u>	P
Live/Work units	<u>P</u>	<u>P</u>	P
Personal living quarters	<u>P</u>	<u>P</u>	P
(c) Commercial Sales and Service (non-residential)			
Advanced technology and biotechnology		<u>P</u>	P
Ambulance or rescue squads, private	<u>[[L]]</u>	<u>L</u>	P
Animal boarding places	<u>SE</u>	<u>SE</u>	SE
Automobile filling stations		<u>SE</u>	SE
Automobile rental services, excluding storage of vehicles and supplies	<u>P</u>	<u>P</u>	P
Automobile rental services, including storage of vehicles and supplies		<u>L</u>	<u>L</u>
Automobile repair and services		<u>L</u>	P
Automobile sales, indoors	<u>[[L]]</u>	<u>L</u>	P
Automobile sales, outdoors [(except where a municipality prohibits the use within its jurisdiction by resolution)]		<u>L</u>	P
Clinic	<u>L</u>	<u>P</u>	P
Conference centers		<u>P</u>	P
Eating and drinking establishments	<u>L</u>	<u>P</u>	P
Health clubs and gyms	<u>L</u>	<u>P</u>	P
Home occupations, major	<u>SE</u>	<u>SE</u>	SE
Home occupations, registered and no-impact	<u>P</u>	<u>P</u>	P
Hotels and motels	<u>[[L]]</u>	<u>P</u>	P
Laboratories		<u>P</u>	P
Dry cleaning and laundry pick-up stations	<u>P</u>	<u>P</u>	P
<u>Dry Cleaner / Laundry Under 3,000 square feet GFA</u>		<u>P</u>	<u>P</u>
Offices, general	<u>P</u>	<u>P</u>	P
Recreational facilities, participatory	<u>[[L]]</u> <u>SE</u>	<u>P</u>	P
Research, development, and related activities		<u>P</u>	P
Retail trades, businesses, and services of a general commercial nature <u>with each tenant footprint up to 5,000[[sf]] square feet</u>	<u>P</u>	<u>P</u>	P
<u>Retail trades, businesses, and services of a general commercial nature with each tenant footprint between 5,000[[sf]] square feet and 15,000[[sf]] square feet</u>	<u>L</u>	<u>P</u>	<u>P</u>
<u>Retail trades, businesses, and services of a general commercial nature with each tenant footprint between 15,000[[sf]] square feet and 60,000[[sf]] square feet</u>		<u>P</u>	<u>P</u>

Use	CRN	CRT	CR
Retail trades, businesses, and services of a general commercial nature with each tenant footprint over 60,000[sf] square feet		<u>L</u>	<u>P</u>
Self-storage facilities		<u>SE</u>	SE
Veterinary hospitals and offices with boarding facilities	<u>SE</u>	<u>L</u>	<u>P</u>
Veterinary hospitals and offices without boarding facilities	<u>P</u>	<u>P</u>	P
Warehousing, not including self-storage, less than 10,000 square feet		<u>P</u>	P
(d) Institutional & Civic (non-residential)			
Charitable and philanthropic institutions	<u>[[L]]</u> <u>P</u>	<u>P</u>	P
Cultural institutions less than or equal to 5,000 square feet GFA	<u>[[L]]</u> <u>P</u>	<u>P</u>	P
Cultural institutions greater than 5,000 square feet GFA		<u>P</u>	<u>P</u>
Day care facilities and centers with over 30 users	<u>L</u>	<u>L</u>	P
Day care facilities and centers with up to 30 users	<u>P</u>	<u>P</u>	<u>P</u>
Educational institutions, private	<u>L</u>	<u>P</u>	P
Hospitals		<u>P</u>	P
Parks and playgrounds, private	<u>P</u>	<u>P</u>	P
Private clubs and service organizations	<u>L</u>	<u>P</u>	P
Publicly owned or publicly operated uses	<u>P</u>	<u>P</u>	P
Religious institutions	<u>P</u>	<u>P</u>	P
(e) Industrial (non-residential)			
Manufacturing and production, artisan	<u>P</u>	<u>P</u>	P
Manufacturing, compounding, processing, or packaging of cosmetics, drugs, perfumes, pharmaceuticals, toiletries, synthetic molecules, and projects resulting from biotechnical and biogenetic research and development		<u>L</u>	P
Manufacturing and assembly of medical, scientific, or technical instruments, devices, and equipment		<u>L</u>	P
(f) Other (non-residential)			
Accessory buildings and uses	<u>P</u>	<u>P</u>	P
Bus terminals, non-public		<u>P</u>	P
Parking garages, automobile		<u>P</u>	P
Public utility buildings, structures, and underground facilities	<u>P</u>	<u>P</u>	P
Radio and television broadcast studios		<u>P</u>	P
Rooftop mounted antennas and related unmanned equipment buildings, cabinets, or rooms	<u>P</u>	<u>P</u>	P

357

358 **59-C-15.51. Limited Uses.**359 **59-C-15.511. Applicability.** Uses designated by an “L” in the land use table are

360 Limited Uses and must comply with the requirements of this Section if they are on
361 properties that are:

362 (a) [[Located]] located adjacent to a property in a one-family residential or
 363 agricultural zone that is not improved with a commercial, industrial, or
 364 utility use; or

365 (b) [[Separated]] separated from such a property only by the right-of-way of a
 366 primary, secondary, or tertiary residential street.

367 Where these circumstances do not apply, the use is considered a permitted use, and
 368 Section [[59-C-15.41(c)(1)]] 59-C-15.512 does not apply.

369 **59-C-15.512. Requirements of Limited Uses.**

370 Development applications that include Limited Uses must:

- 371 (a) satisfy the site plan requirements of 59-D-3;
- 372 (b) comply with the design recommendations of the applicable sector or master
 373 plan[[,]] and associated design guidelines; and
- 374 (c) ensure compatible relationships with existing and proposed adjacent
 375 residential housing through mitigating factors including, but not limited
 376 to[[,]]:
 - 377 (1) increased setbacks;
 - 378 (2) sound and visual barriers;
 - 379 (3) decreased structural heights[[,]]; or
 - 380 (4) diminished site lighting.

381 **59-C-15.6. General requirements.**

382 Development in the CRN, CRT, and CR [zone] zones must comply with the
 383 following requirements.

384 **59-C-15.61. Master plan and design guidelines conformance.**

385 Development that requires a site plan must be substantially consistent with the
 386 applicable master or sector plan [[, unless the Planning Board finds that events
 387 have occurred to render the relevant master or sector plan recommendation no

longer appropriate,]] and must [address] substantially conform to any design guidelines approved by the Planning Board that implement the applicable plan.

[59-C-15.62. Priority retail street frontages.

Development that requires a site plan and is located on a street identified as a priority retail street frontage in the applicable master plan, sector plan, or design guidelines must be developed in a manner that is consistent with the recommendations and objectives of the applicable plan and address any applicable design guidelines approved by the Planning Board that implement the applicable plan.

59-C-15.63. Streetscape.

Streetscape improvements must be consistent with the recommendations of the applicable master or sector plan and must address any Planning Board approved design guidelines that implement the applicable plan.]

[59-C-15.64]59-C-15.62. Bicycle parking spaces and commuter shower/change facility.

[(a) Bicycle parking facilities must be secure and accessible to all residents or employees of the proposed development.

(b) The number of bicycle parking spaces and shower/change facilities required is shown in the following table (calculations must be rounded to the higher whole number):

Bicycle and Shower/Change Facilities Required			
Use	Requirement		
<i>Multi-family Residential</i>			
In a building containing less than 20 dwelling units.	At least 4 bicycle parking spaces.		

In a building containing 20 or more dwelling units.	At least 0.5 bicycle parking spaces per dwelling unit, not to be fewer than 4 spaces and up to a maximum of 100 required spaces.		
In any group living arrangement expressly for senior citizens.	At least 0.1 bicycle parking spaces per unit, not to be fewer than 2 spaces, up to a maximum of 100 required spaces.		
<i>Non-Residential</i>			
In a building with a total non-residential floor area of 1,000 to 9,999 square feet.	At least 2 bicycle parking spaces.		
In a building with a total non-residential floor area of 10,000 to 99,999 square feet.	Two bicycle parking spaces for the first 10,000 square feet plus one additional space for every additional 10,000 square feet, up to a maximum of 100 spaces.		
In a building with a total non-residential floor area of 100,000 square feet or greater.	Two bicycle parking spaces for the first 10,000 square feet plus one additional space for every additional 10,000 square feet, up to a maximum of 100 spaces. One shower/change facility for each gender available only to employees when the building is accessible.		

409]

410 Instead of the requirements of Article 59-E regarding bicycle parking spaces,
411 development in the CRN, CRT, and CR zones must satisfy the following
412 provisions.

413 (a) Bicycle Parking Spaces

414

<u>Use</u>	<u>Publicly Accessible Bike Spaces</u>	<u>Private, Secure Bike Spaces</u>
(1) <u>Multi- family Residential</u>		
<u>In a building containing less than 20 dwelling units</u>	<u>2</u>	<u>4</u>
<u>In a building containing 20 or more dwelling units</u>	<u>0.1 per unit to a maximum requirement of 10</u>	<u>[[0.5]] 0.35 per unit to a maximum requirement of 100</u>
<u>In any group living arrangement expressly for senior citizens</u>	<u>0.1 per unit, not fewer than 2, to a maximum requirement of 100</u>	<u>0.1 per unit, not fewer than 2, to a maximum requirement of 100</u>
(2) <u>Non-Residential</u>		
<u>Total non-residential floor area under 10,000 square feet gross floor area</u>	<u>2</u>	<u>2</u>
<u>Total non-residential floor area between 10,000[[sf]] square feet and 100,000 square feet gross floor area [[(sf)]]</u>	<u>2 per 10,000[[sf]] square feet</u>	<u>1 per 10,000[[sf]] square feet, not fewer than 2, to a maximum requirement of 10</u>
<u>Total non-residential floor area greater than 100,000 square feet gross floor area [[(sf)]]</u>	<u>20</u>	<u>1 per 10,000[[sf]] square feet, not fewer than 10, to a maximum requirement of 100.</u>

415

416 (b) For office uses with a total non-residential floor area of 100,000 square feet
417 of gross floor area or greater, one shower/change facility is required for
418 each gender; the facility may be made available only to employees when the
419 building is accessible.

420 **[59-C-15.65]59-C-15.63. Parking.**

421 [(a) (1) For projects that satisfy the requirements for transit proximity levels 1
422 or 2, the number of parking spaces provided on-site must not exceed the
423 number required under Article 59-E, except that the maximum number of
424 parking spaces for general retail and restaurant uses is 4 spaces for every
425 1,000 square feet of gross leasable area, and no parking spaces are required
426 for restaurant outdoor patron areas.

- (2) All projects that do not satisfy the requirements for transit proximity levels 1 or 2 must meet the parking requirements established under Article 59-E, except that the number of parking spaces for general retail and restaurant uses in Subsection (a)(1) may be provided without a parking waiver.
- (b) Except for retail and restaurant uses that satisfy Subsection (a)(1) and projects that do not satisfy transit proximity level 1 or 2, the number of parking spaces required is based on a building's distance from transit as follows:

Parking Requirements				
	Transit Proximity (Level 1 or 2)			
	¼ mile from transit	¼ to ½ mile from transit	½ mile to 1 mile from transit	>1 mile from transit
Non-residential: the number of required spaces under Article 59-E multiplied by the following factor:	0.20	0.40	0.60	0.80
Residential: the number of required spaces under Article 59-E multiplied by the following factor:	0.60	0.70	0.80	0.90

The appropriate parking rates apply to the gross floor area within each distance category.]

Instead of the requirements of Article 59-E regarding parking space numerical requirements, landscaping, and surface parking design, development in the CRN, CRT, and CR zones must comply with the following provisions. All standards and

requirements of Article 59-E that are not modified by this Section must be satisfied.

59-C-15.631. Parking Ratios.

Parking spaces must satisfy the following minimums and maximums unless the minimum number of parking spaces is waived under §59-C-15.636. The minimum number of spaces required is equal to the number of parking spaces that would otherwise be required by Division 59-E-3, multiplied by the applicable factor in the table, or at the rate indicated. When a maximum number of spaces is indicated, no more parking than would otherwise be required by Division 59-E-3 may be provided.

<u>Use</u>	<u>CRN</u>		<u>CRT</u>		<u>CR</u>			
<u>Distance from a level 1 or 2 transit station or stop</u>	<u>Up to ½ mile</u>	<u>Greater than ½ mile</u>	<u>Up to ½ mile</u>	<u>Greater than ½ mile</u>	<u>Up to ¼ mile</u>	<u>¼ to ½ mile</u>	<u>½ to 1 mile</u>	<u>Greater than 1 mile</u>
<u>(a) Residential</u>								
<u>Maximum:</u>	<u>None</u>	<u>None</u>	<u>59-E</u>	<u>None</u>	<u>59-E</u>	<u>59-E</u>	<u>59-E</u>	<u>None</u>
<u>Minimum:</u>	<u>0.8</u>	<u>1.0</u>	<u>0.7</u>	<u>0.8</u>	<u>0.6</u>	<u>0.7</u>	<u>0.8</u>	<u>0.9</u>
<u>(b) Retail and restaurant non-residential uses (gross leasable indoor area; no parking spaces are required for outdoor patron area)</u>								
<u>Maximum:</u>	<u>[[59-E]] None</u>	<u>None</u>	<u>[[59-E]] None</u>	<u>None</u>	<u>59-E</u>	<u>59-E</u>	<u>59-E</u>	<u>None</u>
<u>Minimum:</u>	<u>[[0.6]] 4 per 1,000 square feet</u>	<u>[[0.8]] 4 per 1,000 square feet</u>	<u>[[0.4]] 4 per 1,000 square feet</u>	<u>[[0.6]] 4 per 1,000 square feet</u>	<u>4 per 1,000 square feet</u>	<u>4 per 1,000 square feet</u>	<u>4 per 1,000 square feet</u>	<u>[[0.8]] 4 per 1,000 square feet</u>
<u>(c) All other non-residential uses</u>								
<u>Maximum:</u>	<u>59-E</u>	<u>None</u>	<u>59-E</u>	<u>None</u>	<u>59-E</u>	<u>59-E</u>	<u>59-E</u>	<u>None</u>
<u>Minimum:</u>	<u>[[0.6]] 0.8</u>	<u>[[0.8]] 1.0</u>	<u>[[0.4]] 0.6</u>	<u>[[0.6]] 0.8</u>	<u>0.2</u>	<u>0.4</u>	<u>0.6</u>	<u>0.8</u>

(d) The appropriate rates to determine the number of parking spaces apply to the gross floor area of each use within each distance category.

59-C-15.632. Accepted Parking Spaces.

457 [(c)] Parking requirements must be met by any one or a combination of the
 458 following:

- 459 [(1)](a) providing the spaces on site;
 460 [(2)](b) constructing publicly available on-street parking; or
 461 [(3)](c) participating in:
 462 (1) a parking lot district;
 463 (2) [or] a shared parking program established by municipal resolution; or
 464 (3) entering into an agreement for shared parking spaces within ¼ mile of
 465 the subject property in a public or private facility ~~[[within]]~~ [1,000
 466 feet] ~~[[¼ mile of the subject lot]]~~, if the off-site parking facility is not
 467 in an agricultural (Division 59-C-9), planned unit development
 468 (Division 59-C-7), or one-family residential (Division 59-C-1) zone,
 469 unless otherwise allowed by this Chapter.

470 [(d)] Every “car-share” space provided reduces the total number of required spaces
 471 by 6 spaces for a non-residential use or 3 spaces for a residential use.

472

473 *Example:* A non-residential project on a CR-zoned site requiring at least 100 spaces under
 474 Article 59-E would be required to provide a maximum of 100 spaces on site. If that site was
 475 within ¼ to ½ mile of a transit station, the minimum requirement for parking would be 40 spaces
 476 (100 x 0.40 = 40). If 2 car-share spaces were provided, that requirement would be 28 for non-
 477 residential use or 34 for residential use.

478

479 **59-C-15.633. Parking space location and access.**

480 [(e)] The design of surface parking [facilities] spaces must comply with the
 481 following:

- 482 [(1)](a) [a] parking [facility at] spaces on or above grade must not be located
 483 between the street and the main front wall of the building or the side wall of
 484 [a] the main building on a corner lot [unless the Planning Board finds that

485 safe and efficient circulation would be better served by a different
 486 arrangement]; and

487 [(2)](b) if a site is adjacent to an alley, the primary vehicular access to the
 488 parking facility must be from that alley.]; and

489 (3) curb cuts must be kept to a minimum and shared by common ingress/egress
 490 easements whenever possible.]

491 **59-C-15.634. Drive-through facility design.**

492 Any drive-through facility requires the approval of a site plan under Division 59-
 493 D-3 and must satisfy the following:

494 [(f)](a) [The design of parking facilities with drive-through services must
 495 comply with the following; however, the Planning Board may approve a
 496 design if it finds that the alternative design would provide safer and more
 497 efficient circulation:] no part of a drive-through [[service]] facility,
 498 including the stacking area, may be located within 100 feet of a property
 499 line shared with [[an]] one-family (Division 59-C-1) or agriculturally
 500 (Division 59-C-9) zoned land;

501 [(1)](b) [the driveway must not be] no drive-through service window, drive
 502 aisle, or stacking area may be located between the street and the main front
 503 wall of [a] the main building [or the side wall of a building on a corner lot];

504 [(2)](c) [the] no drive-through service window [must], drive aisle, or stacking
 505 area may be located [on the rear or] between the street and the side wall of
 506 the main building [; any service window on the side wall of a building must
 507 be] on a corner lot unless permanently screened from any street by a 5-foot
 508 or higher wall or fence[[; and]].

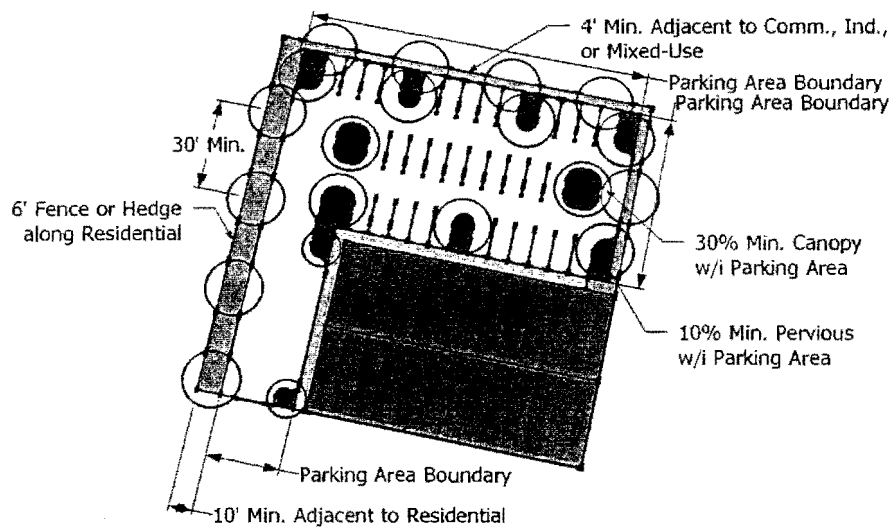
509 [(3) curb cuts to a street must be minimized to one drive aisle of no more than 20
510 feet in width for two-way traffic or two drive aisles each of no more than 10
511 feet in width for one-way traffic.]

512 **59-C-15.635. Landscaping and lighting.**

513 [(g)] Except for areas used for internal driveway or sidewalk connections
514 between lots or parcels that are not [in] zoned one-family residential [(59-C-1)] or
515 agricultural [(59-C-9) zones], landscaping for surface parking [facilities] spaces
516 must satisfy the following requirements:

517

Minimum Landscape Standards for Surface Parking	
Subject	Requirement
(a) [Right-of-Way Screening] <u>Property line adjacent to a right-of-way</u>	<u>No less than 6-foot [width of] wide continuous soil panel [or] (excluding any utility easements) with stormwater [management recharge facility (not including any PUE or PIE) with groundcover] facilities, planting bed, or lawn, including[;] a minimum 3-foot high continuous evergreen hedge or fence; [and] plus one deciduous tree per 30 feet of street frontage or per the applicable streetscape standards.</u>
(b) <u>Property line adjacent to a lot or parcel in a one-family residential or agricultural zone</u>	<u>No less than 10-foot [[width]] wide continuous soil panel (excluding any utility easements) with stormwater facilities, planting bed, or lawn, including a minimum 6-foot high continuous evergreen hedge or fence; plus one deciduous tree per 30 feet of frontage.</u>
(c) <u>Property line [Adjacent] adjacent to a lot or parcel in any [Commercial, Industrial, or Mixed-Use Zone] zone not subject to (b), above</u>	<u>No less than 4-foot [[width]] wide continuous soil panel [or] (excluding any utility easements) with stormwater [management recharge facility with groundcover] facilities, planting bed, or lawn; plus one deciduous tree per 30 feet [of frontage].</u>
<u>[Adjacent to a lot or parcel in an Agricultural or Residential District</u>	<u>10-foot continuous soil panel or stormwater management recharge facility with groundcover, planting bed, or lawn; 6-foot high continuous evergreen hedge or fence; and one deciduous tree per 30 feet of frontage.]</u>
(d) <u>Internal Pervious Area</u>	<u>No less than 10 percent of the parking facility area [[comprised]] composed of individual areas of at least 100 square feet each.</u>
(e) <u>Tree Canopy Coverage</u>	<u>No less than 30 percent of the parking facility area (at 15 years growth).</u>
(f) <u>Lighting</u>	<u>Per the Illuminating Engineering Society of North America standards, or County equivalent, with full or partial cut-off fixtures and no more than 0.5 [[footcandle]] footcandle illumination at any property line subject to (b), above.</u>



Surface Parking Landscape Requirements [[Illustrative]] Illustration

59-C-15.636. Waiver of parking provisions.

The Director, Planning Board, or Board of Appeals may waive any requirement of Section 59-C-15.63 not necessary to accomplish the objectives of this Division and Section 59-E-4.2, and in conjunction with such a waiver may adopt reasonable mitigating requirements above the minimum standards. At least 10 days notice of any request for a waiver under this Section must be provided to all adjoining property owners, affected citizen associations, and Planning Department Staff, if applicable, before a decision may be made.

59-C-15.7. Development standards.

Development in [any] the CRN, CRT, and CR [zone] zones must comply with the following standards.

59-C-15.71. Density and height.

Maximum density and height are specified by the zone established on the zoning map under [[the provisions of]] Section 59-C-15.1.

- 536 [(a) The maximum density for any standard method project is the greater of 0.5
 537 FAR or 10,000 square feet of gross floor area. Any single land use or any
 538 combination of land uses allowed in the zone may achieve the maximum
 539 density.
- 540 (b) The maximum total density and mix of maximum non-residential and
 541 residential density for any project using the optional method of development
 542 is specified by the zone.]

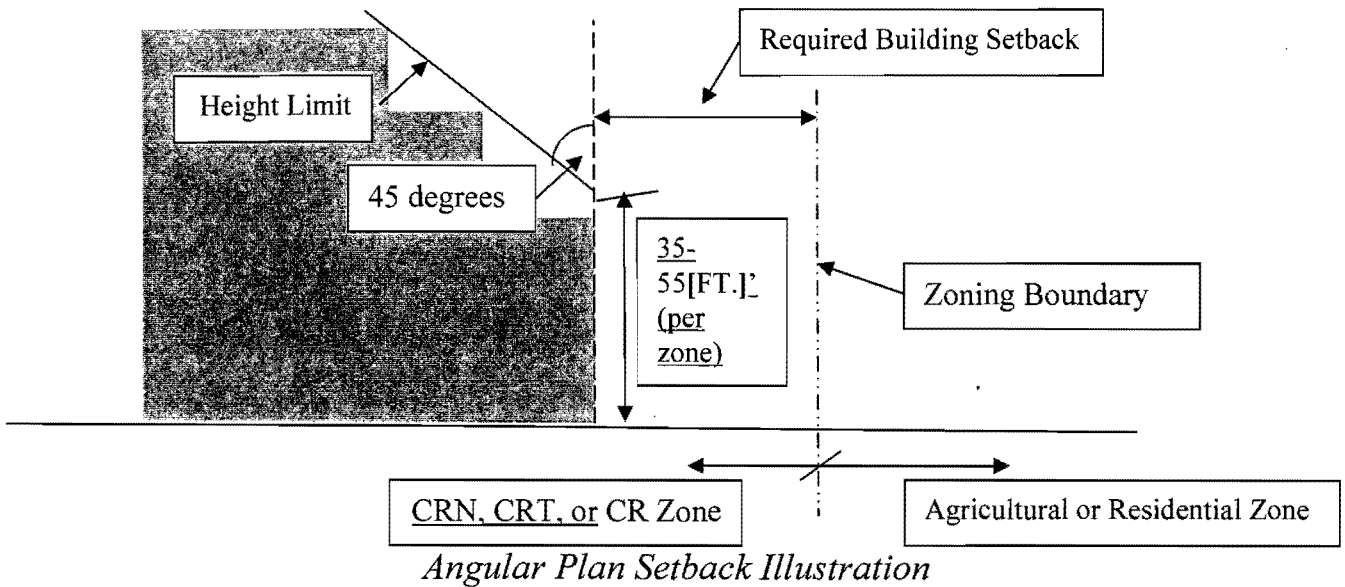
543 **[59-C-15.72. Height.**

- 544 (a) The maximum height for any building or structure in a standard method
 545 project is 40 feet.
- 546 (b) The maximum height for any building or structure in an optional method
 547 project is determined by the zone.]

548 **[59-C-15.73]59-C-15.72. Setbacks.**

- 549 (a) [A building must not be any closer to a lot line shared with] Where a tract of
 550 land is adjacent to a lot or parcel in [an agricultural (Division 59-C-9) or
 551 residential (Division 59-C-1)] a one-family residential or agricultural zone
 552 that is not improved with a commercial, industrial, or utility use, [than] any
 553 building:
- 554 (1) must have a minimum setback of 25 feet or the setback required by
 555 the adjacent lot or parcel, whichever is greater; and
- 556 (2) [the building] must not project beyond a 45 degree angular plane
 557 projecting over the subject lot or parcel measured from a height of 55
 558 feet in the CR zones, 45 feet in the CRT zones, or 35 feet in the CRN
 559 zones at the setback line determined above, with the exception of
 560 those features exempt from height and setback restrictions under
 561 Section 59-B-1.

- (b) The development of a new building in place of a building existing when [the] a CRN, CRT, or CR zone is applied may be built to the [pre-existing setbacks] previously allowed setback if the height of the new building is not increased [over that] above the height of the former building.



[59-C-15.74]59-C-15.73. Public use space.

- (a) Public use space is not required for any standard method project that does not require a site plan. If a site plan is required for the proposed project, [then the minimum] public use space is [10 percent of the project's net land area.] required as follows:

<u>Gross Tract Area</u>	<u>Minimum Public Use Space</u>
Up to 10,000[<u>sf</u>] square feet	None
10,001[<u>sf</u>] square feet up to 3 acres	10% of net tract area
Over 3 acres	10% of limits of disturbance

- 577 (b) Projects using the optional method of development must provide public use
 578 space as follows:

Minimum Required Public Use Space (% of net tract area)				
Acres (Gross)	Number of Existing, Proposed, and Master-Planned Right-of-Way Frontages			
	1	2	3	4+
< ½	0	0	0	5
½ - 1.00	0	0	5	10
1.01 - 3.00	0	5	10	10
3.01 - 6.00	5	10	10	10
6.01 +	10	10	10	10

- 580
 581 (c) Public use space must:
- 582 (1) be [calculated on the net tract area that was included in the sketch
 583 plan application;
 - 584 (2) be] rounded to the next highest 100 square feet;
 - 585 [(3)](2) be easily and readily accessible to the public; and
 - 586 [(4) be distributed within the entire tract area included in the sketch plan
 587 application; and
 - 588 (5)](3) contain amenities such as seating options, shade, landscaping,
 589 artwork, or [other similar public benefits] fountains.
- 590 (d) Instead of providing on-site public use space, [for any site of 3 acres or less,
 591 a development may propose the following alternatives,] an applicant may
 592 satisfy all or part of the requirement by one or more of the following means,
 593 subject to Planning Board approval:
- 594 (1) implementing public park or public use space improvements of an
 595 equal or greater size within [¼ mile of the subject site] or near the
 596 applicable master or sector plan area; or

(2) making a payment in part or in full [to the Public Amenity Fund under Section 59-D-2.31.] for design, construction, renovation, restoration, installation, and/or operation within or near the applicable master or sector plan area if the payment is:

(A) equal to the cost of constructing an equal amount of public use space and associated amenities on[[-]] site per square foot plus the fair market value of the [[application]] applicable tract of land per square foot;

(B) used to implement the open space, recreation, and cultural goals of the applicable master or sector plan; and

(C) made within 30 days of the release of any building permit for the subject application.

[(e) A development on a site larger than 3 acres may only provide off-site public use space in order to provide master-planned open space improvements, or a payment under Subsection (d)(2), for an area of equal or greater size required on site that is:

(1) located within the same master plan area as the proposed development; and

(2) indicated on the approved sketch plan.]

[59-C-15.75]59-C-15.74. Residential amenity space.

(a) Any building containing 20 or more dwelling units must provide amenity space for its residents as follows:

Required Residential Amenity Space	
Type of Amenity Space	Area of Amenity Space
Indoor space in a multi-purpose room, fitness room, or other common community room(s), at least one of which must contain a kitchen and bathroom.	<u>A minimum of 20 square feet per market-rate dwelling unit up to 5,000 square feet.</u>
Passive or active outdoor recreational space.	<u>A minimum of 20 square feet per market-rate dwelling unit, of which at least 400 square feet must adjoin or be directly accessible from the indoor amenity space, up to 5,000 square feet.</u>

- (b) [The] Additional amenity space is not required for Moderately Priced Dwelling Units (MPDUs) or Workforce Housing Units (WFHUs) on a site within a metro station policy area or where the Planning Board finds [that there is] adequate recreation facilities and open space area available within [a] ½ mile [radius] of the subject site. If such a finding cannot be made, amenity space must be provided as if all the dwelling units were market-rate units.
- (c) [The amenity space requirement may be reduced by ½ for Workforce Housing Units (WFHUs) located within a metro station policy area or if the minimum public open space requirement is satisfied on site.]
- (d) The provision of residential amenity space may be counted towards meeting the required recreation calculations under the M-NCPPC Recreation Guidelines, as amended.

59-C-15.8. Special regulations for the optional method of development.

[59-C-15.81. Incentive Density Provisions.]

This section establishes incentives for optional method projects to provide public benefits in return for increases in density and height above the standard method maximums[, consistent with the applicable master or sector plan,],₂ up to the maximum permitted by the zone.

59-C-15.81. Incentive Density Categories.

[(a)] Public benefits must be provided that enhance or contribute to the objectives of the CRT and CR [zone] zones in some or all of the following categories:

- [(1)](a) [Master-planned major] Major public facilities;
- [(2)](b) Transit proximity [for residents, workers, and patrons];
- [(3)](c) Connectivity between uses [and], activities, and mobility options;
- [(4)](d) Diversity of uses and activities;
- [(5)](e) Quality of building and site design; [[and]]
- [(6)](f) Protection and enhancement of the natural environment[; and
- (7) Advanced dedication of right-of-way];and
- (g) Retained Buildings.

[Sections 59-C-15.82 through 59-C-15.88 indicate] Section 59-C-15.85 indicates the individual [types of] public benefits that may be accepted in each of these categories.

59-C-15.82. Public benefits required.

- (a) Any optional method development must satisfy the minimum public benefit points from the mininium number of benefit categories as follows:

<u>Zoning Classification</u>	<u>Sites smaller than 10,000 square feet of land area or less than 1.5 maximum allowed FAR</u>		<u>Sites equal to or larger than 10,000 square feet of land area or equal to or more than 1.5 maximum allowed FAR</u>	
	<u>Public Benefit Points</u>	<u>Number of Benefit Categories</u>	<u>Public Benefit Points</u>	<u>Number of Benefit Categories</u>
<u>CRT</u>	<u>25</u>	<u>2</u>	<u>50</u>	<u>3</u>
<u>CR</u>	<u>50</u>	<u>3</u>	<u>100</u>	<u>4</u>

659 For the purpose of determining the minimum number of public benefit
 660 points and the minimum number of benefit categories, all land adjoining and
 661 abutting the subject property under common ownership when the CR or
 662 CRT zone was applied must be included to determine the area of the site.
 663 [[Any optional method development must provide public benefits from at least 4
 664 of the categories listed in Section 59-C-15.81 and:

- 665 (a) Development in the CRT zones must provide public benefits worth a
 666 minimum total of 50 points; and]]
 667 (b) Development in the CR zones must provide BLTs required under Section
 668 59-C-15.856(a) for at least 5 points and provide additional public benefits;
 669 the sum of the public benefit points must equal at least 100.

670 **59-C-15.83. General incentive density considerations.**

671 [(b)] In approving any incentive density based on the provision of public
 672 benefits, the Planning Board must not grant incentive density for any
 673 attribute required by law and must consider:

- 674 [(1)](a) The [policy] recommendations, [[and]] objectives, [and priorities] and
 675 priorities of the applicable master or sector plan;
 676 [(2)](b) [Any applicable design guidelines and any adopted public benefit
 677 standards and guidelines] The CR Zone Incentive Density Implementation
 678 Guidelines and any design guidelines adopted for the applicable master plan
 679 area;
 680 [(3)](c) The size and configuration of the tract;
 681 [(4)](d) The relationship of the site to adjacent properties;
 682 [(5)](e) The presence or lack of similar public benefits nearby; and

683 [(6)](f) Enhancements beyond the elements listed in the individual public
 684 benefit descriptions or criteria that increase public access to or enjoyment of
 685 the benefit.

686 Examples: Pedestrian activation along a through-block connection, greater
 687 vegetated roof or tree canopy area than required, tower step-backs at a lower
 688 height or deeper into the site than the minimum necessary to qualify for the
 689 benefit, or provision of neighborhood services for more smaller businesses
 690 than required.

691 [(c) Any incentive density increase approved by the Planning Board for an
 692 optional method of development application must satisfy Subsection 59-C-
 693 15.87(a).]

694 **59-C-15.84. CR zones incentive density implementation guidelines.**

695 [(d)] The Planning Board must adopt, publish, and maintain guidelines that detail
 696 the standards and requirements for public benefits [that may be provided for
 697 incentive density]. The guidelines must:

698 [(1)](a) be consistent with the [recommendations and] objectives of [the
 699 applicable master or sector plan and the purpose of the CR zones] [[this
 700 Division]] the applicable master or sector plan and the purpose of the CR
 701 zones;

702 [(2)](b) be in addition to any standards, requirements, or rules of incentive
 703 density calculation included in this Division, but may not [supersede]
 704 conflict with those provisions; and

705 [(3) allow any single feature of a project a density incentive from only 1 public
 706 benefit;

707 (4)](c) only [address the] allow incentive density for those public benefits
 708 listed in [Sections 59-C-15.82 through 59-C-15.88 and must not add a
 709 public benefit category; and

710 (5) include the criteria to determine when an early dedication of right-of-way
 711 qualifies for incentive density, and the amount of the incentive density
 712 permitted] Section 59-C-15.85.

713 **59-C-15.85. Individual public benefit descriptions and criteria for CR zones.**
 714 **[59-C-15.82]59-C-15.851. [Incentives for master-planned major] Major public**
 715 **facilities.**

716 Major public facilities [such as schools, libraries, recreation centers, urban parks,
 717 and county service centers] provide public services at convenient locations and
 718 where increased density creates a greater need for civic uses and greater demands
 719 on public infrastructure [, centers for community meetings, and civic events].

720 (a) Major public facilities include, but are not limited to, such facilities as
 721 schools, libraries, recreation centers, parks, county service centers, public
 722 transportation or utility upgrades, or other resources delineated in an
 723 applicable master or sector plan.

724 (b) If a major public facility is not recommended in the applicable master or
 725 sector plan, the Planning Board must find that the facility or improvement
 726 provides the community with a resource that is at least as beneficial as other
 727 major facilities recommended in the applicable master or sector plan.

728 Additionally, any infrastructure upgrade may only receive incentive density
 729 for improvements beyond those required by any applicable adequate public
 730 facilities requirement to complete the proposed development.

731 (c) Because of their significance in place-making, the Planning Board may
 732 approve incentive density of up to 40 points in the CRT zones and 70

[percent] points in the CR zones for (1) the conveyance of a site or floor area for, [and/or] (2) construction of, and/or (3) making a payment for a major public facility that is [designated on a master plan or sector plan and is] accepted for use and/or operation by [the] an appropriate public agency, community association, or nonprofit organization.

[59-C-15.83]59-C-15.852. [Incentives for transit] Transit Proximity.

[In order to encourage] Development near transit facilities encourages greater use of transit, [control] controls sprawl, and [reduce] reduces vehicle miles traveled, congestion, and carbon emissions[, the Planning Board may approve incentive density for transit proximity under this section. The percentage of incentive density awarded to a project for transit proximity is], and is eligible for incentive density. The Planning Board may approve incentive density for transit proximity under this section. Transit proximity points are granted for proximity to existing or master planned transit stops based on transit service level and CRT and CR zones as follows:

[Transit Proximity]	Level 1	Level 2
Adjacent or confronting	50%	30%
Within ¼ mile	40%	25%
Between ¼ and ½ mile	30%	20%
Between ½ and 1 mile	20%	15%]

<u>Proximity</u>	<u>Adjacent or confronting</u>		<u>Within ¼ mile</u>		<u>Between ¼ and ½ mile</u>		<u>Between ½ and 1 mile</u>	
<u>Transit Service Level</u>	<u>1</u>	<u>2</u>	<u>1</u>	<u>2</u>	<u>1</u>	<u>2</u>	<u>1</u>	<u>2</u>
<u>CRT</u>	<u>25</u>	<u>15</u>	<u>20</u>	<u>12.5</u>	<u>15</u>	<u>10</u>	<u>10</u>	<u>7.5</u>
<u>CR</u>	<u>50</u>	<u>30</u>	<u>40</u>	<u>25</u>	<u>30</u>	<u>20</u>	<u>20</u>	<u>15</u>

(a) A project is adjacent to or confronting a transit station or stop if it shares a property line[,] or easement line, or is separated only by a right-of-way from an existing or master-planned transit station or stop, and 100 percent of the

gross tract area [submitted] in a single sketch plan application is within ¼ mile of the transit portal.

(b) For split proximity-range projects:

(1) [For all other projects to qualify for incentive density availability at the other distances,] If at least 75 percent of the gross tract area in a single sketch plan application [must be within the range for which the incentive is proposed.] is within the closer of two proximity ranges, the entire project may take the points for the closer range;

(2) [The incentive density for projects] If less than 75 percent of the gross tract area in [1 distance range] a single sketch plan is within the closer of 2 proximity ranges, the points must be calculated as the weighted average of the percentage of area in each range.

[59-C-15.84]59-C-15.853. [Incentives for connectivity] Connectivity and mobility.

[In order to enhance] Development that enhances connectivity between uses and amenities; [and increase] increases mobility options; [encourage] encourages non-automotive travel [for short and multi-purpose trips as well as for commuting]; [facilitate] facilitates social [and commercial] interaction; [provide] provides opportunities for healthier living; and [stimulate] stimulates local businesses[, the Planning Board may approve incentive density of up to 30% for a project that provides at least 2 of the following public benefits:] is eligible for incentive density.

(a) **Neighborhood Services:** [Safe] [[At least 10 points for safe and direct pedestrian access to at least 10 different retail services on site or within ¼ mile, of which at least 4 have a [maximum] retail bay floor area of no greater than 5,000 square feet]] When fewer than 10 different basic services

are within ¼ mile of the subject site, up to 15 points for providing floor area resulting in at least 10 different basic services within ¼ mile of the subject site. Of those 10 services, at least 4 must have tenant or owner bays of no more than 5,000 square feet each. However, for all sketch plan applications approved by the Planning Board before October 11, 2011, and for any subsequent related site plan approvals, at least 10 points for safe and direct pedestrian access to at least 10 different retail services on site or within ¼ mile, of which at least 4 have a retail bay floor area of no greater than 5,000 square feet.

- (b) **Minimum Parking:** [Provision of the minimum required] Up to 10 points for providing less than the maximum allowed number of parking [for projects of one acre of gross tract area or more] spaces, if a maximum is applicable under Section 59-C-15.631.
- (c) **Through-Block Connections:** [Safe] Up to 20 points for safe and attractive pedestrian connections between streets.
- (d) **Public Parking:** [Provision of] Up to 25 points for providing up to the maximum number of parking spaces allowed in the zone as public parking.
- (e) **Transit Access Improvement:** [Ensuring] Up to 20 points for ensuring that access to transit facilities meets County standards for handicapped accessibility.
- (f) **Trip Mitigation:** [A] [[At least 15]] Up to 20 points for entering into a binding [and verifiable] Traffic Mitigation Agreement to reduce the number of weekday morning and evening peak hour trips attributable to the site in excess of any other regulatory requirement; the agreement must result in a non-auto driver mode share of at least 50% for trips attributable to the site.

- 804 (g) **Streetscape:** Up to 20 points for construction of off-site streetscape,
 805 excluding any streetscape improvements required by this Division.
- 806 (h) **Advance Dedication:** Up to 30 points for dedicating or providing a
 807 reservation for dedication for master-planned rights-of-way in advance of a
 808 preliminary or site plan application.
- 809 (i) **Way-Finding:** [[At least 5]] Up to 10 points for design and implementation
 810 of a way-finding system orienting pedestrians and cyclists to major open
 811 spaces, cultural facilities, and transit opportunities.
- 812 **[59-C-15.85]59-C-15.854. [Incentives for diversity] Diversity of uses and**
 813 **activities.**
- 814 [In order to increase] Development that increases the variety and mixture of land
 815 uses, types of housing, economic [diversity] variety, and community activities;
 816 [contribute] contributes to development of [a] more efficient and sustainable
 817 [community] communities; [reduce] reduces the necessity for automobile use; and
 818 [facilitate] facilitates healthier lifestyles and greater social interaction[, the
 819 Planning Board may approve incentive density of up to 30% for a project that
 820 provides affordable housing or a public facility, as described below, or at least 2 of
 821 the other following public benefits:] is eligible for incentive density.
- 822 (a) **Affordable Housing:**
- 823 (1) All residential development must comply with the requirements of
 824 Chapter 25A for the provision of Moderately Priced Dwelling Units
 825 (MPDUs) [and may provide Workforce Housing Units (WFHUs)
 826 under Chapter 25B.
- 827 (1) MPDU Incentive Density: Provision of MPDUs above the minimum
 828 required is calculated on the total number of dwelling units as
 829 required by Chapter 25A, and the percent of incentive density

increase is based on the proposed FAR for the entire project]]], except that achieving bonus density under Section 25A-5(c)(3), as amended from time to time, entitles an applicant to incentive density points under this Division equal to the bonus density percentage]]].

(2) MPDU Incentive Density: Provision of MPDUs above the minimum number of units required by Chapter 25A.

(A) MPDU units above the minimum number of units required, but not more than 15 percent of all units, entitles the applicant to 12 incentive density points for each 1 percent increase in MPDUs. Any fraction of 1 percent increase in MPDUs entitles the applicant to an equal fraction of 12 points.

(B) Above 15 percent of MPDUs, each 1 percent of additional MPDUs entitles the applicant to an additional 2 benefit points; any fraction of 1 percent increase in MPDUs entitles the applicant to an equal fraction of 2 points.

(C) MPDUs under this subsection may be provided in any manner allowed by Chapter 25A.

[[

Example: Provision of 14.5% MPDUs is awarded [an incentive density of 20 % (see 25A-5(c)(3)). In the case of a CR 4.5 zone that proposes 4.5 FAR, that equals 0.20 x 4.0 (the incentive density), which is 0.8 FAR] 20 points; provision of 13.0% MPDUs is awarded 5 points.

]]

[[(2)] [WFHU Incentive Density: Provision of] [[Up to 30 points for providing Workforce Housing Units (WFHUs) at a rate of]] [is

calculated at the following rate:] [[2 times the percentage of total
units, excluding MPDUs]] [provided as WFHUs]]].

Example: Provision of 5% WFHUs is awarded [incentive density of] 10[%]
points; provision of 12% WFHUs is awarded [incentive density of] 24[%]
points.

- (b) **Adaptive Buildings:** [Provision of buildings with] [[At least 10]] ¹¹ Up to 15
points for constructing commercial or [[mixed use]] mixed-use buildings
with minimum floor-to-floor heights of at least 15 feet on any floor that
meets grade and 12 feet on all other floors. Internal structural systems must
be able to accommodate various types of use with only minor modifications.
- (c) **Care Centers:** [Child] Up to 20 points for constructing a child [[or]] day
care, adult day care [facilities], or teen center facility, with spaces for at
least 15 users.
- (d) **Small Business [Retention] Opportunities:** [Provision of] Up to 20 points
for providing on-site space for small, neighborhood-oriented businesses.
- (e) **Dwelling Unit Mix:** [Provision of] [[At least 5]] Up to 10 points for
integrating a mix of residential unit types with at least 7.5% efficiency units,
8% 1-bedroom units, 8% 2-bedroom units, and 5% 3-or-more bedroom
units.
- (f) **Enhanced Accessibility for the Disabled:** [Provision of] Up to 20 points
for constructing dwelling units that satisfy American National Standards
Institute A117.1 Residential Type A standards or [units that satisfy] an
equivalent County standard.

881 (g) **Live/Work:** ~~[[At least 10]]~~ Up to 15 points for developments of up to 2.0
 882 FAR total density that provide at least the greater of 3 units or 10% of the
 883 total unit count as live/work units.

884 ~~[59-C-15.86]~~**59-C-15.855. [Incentives for quality] Quality building and site**
 885 **design.**

886 High quality design is especially important in urban, integrated-use settings, to
 887 ensure that buildings and uses are visually compatible with each other and
 888 adjacent communities and to provide a harmonious pattern of development, and is
 889 eligible for incentive density. Due to [the] increased density [of] in these settings,
 890 buildings tend to [have high visibility. High] be highly visible; [[and]] high
 891 quality design [may help to] helps attract residents, patrons, and businesses to
 892 [locate in] these [settings] areas. Location, height, massing, façade treatments, and
 893 ornamentation of buildings affect sense of place, orientation, and the perception of
 894 comfort and convenience. The quality of the built environment affects light,
 895 shadow, wind, and noise, as well as the functional and economic value of
 896 property. [In order to promote high quality design, the Planning Board may
 897 approve incentive density of up to 30% to a project that provides at least 2 of the
 898 following public benefits:]

899 (a) **Historic Resource Protection:** [Preservation] Up to 20 points for the
 900 preservation and/or enhancement of, or payment towards preservation
 901 [[and/]]or enhancement of a historic resource [indicated on] or a
 902 contributing element within a historic district designated in the Master Plan
 903 for Historic Preservation [in conformance with a plan approved by the
 904 Historic Preservation Commission. A fee-in-lieu for a specific preservation
 905 project may be paid to the Historic Preservation Division as specified in the
 906 Guidelines for Public Benefits].

- 907 (b) **Structured Parking:** [Parking provided] Up to 20 points for placing
 908 parking within [a structure or below-grade] above- or below-grade
 909 structures.
- 910 (c) **Tower [Setback] Step-Back:** [Setback of building] [[At least 5]] Up to 10
 911 points for stepping back a building's upper floors by a minimum of 6 feet
 912 [beyond] behind the first floor façade [at a maximum height of]. The step-
 913 back must begin at a height no greater than 72 feet.
- 914 (d) **Public Art:** [Provision of] Up to 15 points for installing public art [must
 915 be] reviewed for comment by, or paying a fee accepted by, the [Public Arts
 916 Trust Steering Committee. A fee-in-lieu may be paid to the Trust as
 917 specified in the Guidelines for Public Benefits] Arts and [[Humanity]]
 918 Humanities Council.
- 919 (e) **Public Open Space:** [Provision of] Up to 20 points for providing, or
 920 making a payment for, open space in addition to the minimum public use
 921 space required by [the zone. Public open space must be easily accessible to
 922 the public during business hours and/or at least from sunrise to sunset and
 923 must contain amenities such as seating, plantings, trash receptacles, kiosks,
 924 and water features] this Division.
- 925 [(f) **Streetscape:** Construction of off-site streetscape in addition to the
 926 requirements of this division][[.]]
- 927 (f) **Exceptional Design:** [Building design that provides innovative solutions in
 928 response to the immediate context; creates a sense of place and serves as a
 929 landmark; enhances the public realm in a distinct and original manner;
 930 introduces new materials, forms, or building methods; uses design solutions
 931 to make compact infill development living, working, and shopping
 932 environments more pleasurable and desirable; and integrates low-impact

development methods into the overall design of the site and building.] Up to 10 points for building or site design whose visual and functional impacts enhance the character of a setting and the purposes delineated in this Section.

- (g) **Architectural Elevations:** Up to 20 points for providing elevations of architectural façades and agreeing to be bound by particular elements of design, such as minimum amount of transparency, maximum separation between doors, awning provisions, sign restrictions, or lighting parameters that affect the perception of mass[[.]] or pedestrian comfort, or enhance neighborhood compatibility.

[59-C-15.87]59-C-15.856. [Incentives for] Protection and enhancement of the natural environment.

[In order to combat sprawl and] [[Protection]] Protecting and [[enhancement of]] enhancing natural systems and [[decreases in]] decreasing energy consumption help mitigate or reverse environmental [problems] impacts, such as heat island effects from the built environment, inadequate carbon-sequestration, habitat and agricultural land loss, and air and water pollution caused by reliance on the automobile, and are eligible for incentive density [, the Planning Board may approve a density increase up to 30% for the public benefits in this Subsection:].

- (a) **Building Lot Termination(BLT):** [CR zones require] Up to 30 points for the purchase of BLT easements or payment to the Agricultural Land Preservation Fund (ALPF) [for at least 5% but no more than 30% of the incentive density under the following conditions]. The first 5 points are mandatory for all developments in the CR zones; up to 25 additional points are allowed as an option.

(1) In the CR zones, an applicant must purchase BLT easements, or make payments to the ALPF, in an amount equal to 5% of the incentive density floor area under the following parameters:

(A) One BLT must be purchased or equivalent payment made for every 20,000 square feet of gross floor area to qualify for the first 5% incentive density floor area; [[and]]

(B) Any private BLT easement must be purchased in whole units; or

(C) BLT payments must be made to the ALPF, based on the amount established by Executive Regulations under Chapter 2B; if a fraction of a BLT easement is needed, a payment based on the gross square footage of incentive density must be made for at least the fraction of the BLT easement.

(2) [BLT payments must be made to the Agricultural Land Preservation Fund, based on the amount established by Executive Regulations under Chapter 2B; if a fraction of a BLT easement is needed, a payment based on the gross square footage of incentive density must be made to the Agricultural Land Preservation Fund for at least the fraction of the BLT easement.] Up to 25 points for the purchase of BLTs[[,.]] or equivalent payments to the ALPF may be made for any incentive density above 5%. Each BLT easement purchase or payment is equal to 30,000 square feet of gross floor area, or such proportionate square footage represented by a fractional BLT purchase or payment. This is converted into points by dividing the incentive density floor area covered by the purchase or payment by the total square feet of the incentive density area.

- (3) In the CRT zones, BLT payments are optional; each BLT easement purchase or payment is equal to 30,000 square feet of gross floor area, or such proportionate square footage represented by a fractional BLT purchase or payment. [(A) For the first 5% of incentive density, each BLT easement purchase or payment allows 20,000 gross square feet of incentive density or a proportion thereof, allowed by a payment for a fraction of a BLT.
- (B) For the incentive density above 5%, each BLT easement purchase or payment allows 30,000 gross square feet of incentive density or a proportion thereof, allowed by a payment for a fraction of a BLT.]

Example: If a 50,000 square-foot [(sf) CR3.0] CR-3.0 site is fully developed, the incentive density available to be earned equals 125,000[(sf)] square feet (150,000[(sf)] square feet - 25,000[(sf)] square feet = 125,000[(sf)] square feet). The 5% BLT requirement for 125,000[(sf)] square feet equals 6,250[(sf)] square feet, which equals 0.32 BLT (6,250[(sf)] square feet / 20,000[(sf)] square feet = 0.32). If the applicant seeks an additional 10 points through the purchase of BLTs, 10% of the incentive density is calculated, which in this case is 12,500[(sf)] square feet (125,000[(sf)] square feet x 0.10 = 12,500[(sf)] square feet). Because 1 BLT, above the required 5%, is equivalent to 30,000[(sf)] square feet, the 12,500[(sf)] square feet requires a payment for an additional 0.42 BLTs (12,500[(sf)] square feet / 30,000[(sf)] square feet = 0.42). Together, the required and incentive BLTs equal 0.74 BLTs for 15 points in the Environment category.

- (b) **Energy Conservation and Generation:** [Provision of energy-efficiency that exceeds] [[At least 10]] Up to 15 points for constructing buildings that

exceed the energy-efficiency standards for the building type by 17.5% for new buildings or 10% for existing buildings [, or provision of]. At least 15 points for providing renewable energy generation facilities on[-] site or within ½ mile of the site for a minimum of 2.5% of the projected energy requirement for the development.

(c) **[Green] Vegetated Wall:** [Installation] [[At least 5]] Up to 10 points for the installation and maintenance of a vegetated wall that covers at least 30% of any blank wall or parking garage façade that is at least 300 square feet in area and is visible from a public street or open space.

(d) **Tree Canopy:** [Coverage] [[At least 10]] Up to 15 points for tree canopy coverage at 15 years of growth of at least 25% of the on-site open space.

(e) **Vegetated Area:** [Installation] [[At least 5]] Up to 10 points for installation of plantings in a minimum of 12 inches of soil, covering at least 5,000 square feet [of previously impervious surfaces]. This does not include vegetated roofs.

(f) **Vegetated Roof:** [Provision] [[At least 10]] Up to 15 points for installation of a vegetated roof with a soil depth of at least 4 inches covering at least 33% of a building's roof, excluding space for mechanical equipment.

(g) **Cool Roof:** [[At least 5]] Up to 10 points for constructing any roof area that is not covered by a vegetated roof with a minimum solar reflectance index (SRI) of 75 for roofs with a slope at or below a ratio of 2:12, and a minimum SRI of 25 for slopes above 2:12.

(h) **Recycling Facility Plan:** [[At least 5]] Up to 10 points for providing a recycling facility plan to be approved as part of a site plan for buildings that must comply with Montgomery County Executive Regulation 15-04AM or Montgomery County Executive Regulation 18-04.

- (i) **Habitat Preservation and Restoration:** Up to 20 points for protection, restoration, or enhancement of natural habitats, ~~[[onsite]]~~ on site or within the same local watershed, which are in addition to requirements of the Forest Conservation Law or other county laws.

[59-C-15.88. Advanced dedication of right-of-way.

When sketch plans or site plans are approved, the Planning Board may allow an incentive density not to exceed 30% for a prior dedication of rights-of-way for roadways, sidewalks, or bikeways recommended in the applicable master or sector plan, if the County or the State is responsible for constructing the facility on the right-of-way.]

59-C-15.857. Retained Buildings.

Development that:

- (a) maintains 75% of the structural system of the existing building;
 - (b) uses an architectural deconstruction company or organization to remove recyclable materials prior to any demolition; and
 - (c) submits documentation showing compliance with these criteria before the County issues a building permit for a new development
- may receive public benefit points, determined by applying the following formula:

Public benefit points in CR zones =

(Retained gross floor area / Incentive density gross floor area) x 100;

Public benefit points in CRT zones =

(Retained gross floor area / Incentive density gross floor area) x 50.

59-C-15.9. Existing Approvals.

- (a) One or more lawfully existing buildings [or], structures [and the], or uses [therein which] [[,]] that predate the [applicable sectional map amendment] application of the CR zone to the [[site]] [,] land are conforming structures

or uses[[,]] and may be continued, renovated, repaired, or reconstructed to the same size and configuration, or enlarged up to a total of 10 percent above the total existing floor areas of all buildings and structures on site or 30,000 square feet, whichever is less, and such development does not require a site plan. [Enlargements] Expansions in excess of the limitations in this Subsection will require compliance with the full provisions of this Division. Uses located in a building or structure deemed conforming under the provisions of this Subsection may be converted to any permitted non-residential or residential use(s) up to the density limits for the land use established by the CRT, CRN, or CR zone.

- (b) A project that received an approved development plan under Division 59-D-1 or schematic development plan under Division 59-H-2 before the [enactment] application of the CR zones to the [[site]] land may proceed under the binding elements of the development plan and will thereafter be treated as a lawfully existing building, and may be renovated or reconstructed under Subsection (a) above. Such development plans or schematic development plans may be amended as allowed under Division 59-D-1 or 59-H-2 under the provisions of the previous zone; however, any incremental increase in the total floor area beyond that allowed by Subsection (a) above or any incremental increase in building height greater than 15 feet requires, with respect to the incremental increase only, full compliance with the provisions of this Division. Any failure to fully comply with the binding elements of the development plan will require full compliance with the provisions of this Division.
- (c) At the option of the owner, any portion of a project subject to an approved development plan or schematic development plan described in Subsection

(b) above may be developed under this Division. The remainder of that project continues to be subject to the approved development plan or schematic development plan[[,]] under Subsections (a) and (b).

(d) A project which has had a preliminary or site plan approved before the [[applicable sectional map amendment]] application of the CR zone to the property may be built or altered at any time, subject to either the full provisions of the previous zone or this [division] Division, at the option of the owner. If built under the previous approval, it will then be treated as a [lawfully existing building] conforming building, structure, or use and may be renovated, continued, repaired, or reconstructed under Subsection (a) above. If built with an incremental increase over the previous approval, only that incremental increase must comply with this Division.

(e) A project that has had a special exception approved before application of the CR zone to the site may continue as a lawfully existing use as long as it fully complies with the terms and conditions of its approval. Any failure to fully comply with the terms and conditions of the special exception approval will require full compliance with the provisions of this Division. If a special exception holder chooses to operate under this Division instead of under the special exception, written notice must be provided to the Board of Appeals that the special exception has been abandoned.

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Sec. 3. Effective date. This ordinance takes effect 20 days after the date of Council adoption.

1112 This is a correct copy of Council action.

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1114 *Linda M. Lauer*

1115 Linda M. Lauer, Clerk of the Council